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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Honorable Charles W. Stenholm
House of Representatives
1211 Longworth House Office Building
Washington, DC 20515-4317

Dear Congressman Stenholm:

Thank you for your letter expressing your concerns about the two freezes which prohibit the filing of Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS) applications. You request that we evaluate our decisions regarding these freezes.

The Commission is currently reviewing the MDS freeze. A copy of the July 28, 1993 public notice on this subject is enclosed. In response to this public notice, a number of statements were submitted, suggesting a wide variety of proposals on when and under what conditions the Commission should lift the MDS freeze. Each of the statements submitted by companies which operate wireless cable systems recommended that the Commission refrain from adopting a wholesale lifting of the freeze in order to avoid a flood of applications by "application mills" which would overwhelm Commission resources necessary to process applications for wireless cable operators. Careful consideration is being given to the lifting of the MDS freeze in such a manner that it will enable Commission resources to be focused on processing MDS applications which would lead to the expeditious initiation of wireless cable service in a new community.

I agree that the "effective competition" provided by wireless cable companies presently is the best method to provide protection to consumers against excessive rates and poor service of cable companies. Your letter will be included with the responses to the July 28, 1993 MDS/MMDS public notice and will also be included as part of the record in the rulemaking proceeding which is evaluating the ITFS freeze.

Sincerely,

James H. Quello
Chairman

Enclosure



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET N.W.
WASHINGTON, D.C. 20554

34165

News media information 202/632-5050. Recorded listing of releases and texts 202/632-0002.

July 28, 1993

MDS/MMDS APPLICATIONS FILING FREEZE

In Amendment of Parts 1, 2 and 21 of the Commission's Rules, 8 FCC Rcd 1444 (1993), the Commission adopted certain rule changes, and took other actions, to expedite the processing of MDS/MMDS applications. The Commission noted that approximately 20,000 applications were pending at that time, and it decided to maintain the freeze on the filing of MDS/MMDS applications for new stations, imposed on April 9, 1992 (the freeze does not apply to MDS/MMDS modification, renewal, assignment, transfer of control, extension or signal booster applications). The Commission anticipated the freeze would continue at least through September 30, 1993, but stated "we will re-evaluate the status of the remaining backlog in July, 1993 to determine whether that estimate should be revised." Id. at 1445, n. 17.

Between January 1 and June 30 of 1993, the staff processed over 12,000 applications. During that period, more than 400 additional applications were filed (for example, modification, extension, assignment, transfer of control, renewal, and signal booster applications), leaving more than 8,500 applications to be processed.

In addition to processing pending applications, the staff must take action on legal cases, some of which involve challenges to pending applications and some of which concern applications which have received final action. While significant progress has been made in processing the backlog of pending applications, the backlog of MDS/MMDS legal challenges remains significant and new pleadings (such as petitions for reconsideration, petitions for reinstatement, applications for review, waiver requests, petitions to deny, etc.) continue to be filed. Although there has been a substantial increase in the number of completed legal cases in the last six months, there is currently a backlog of more than 4,000 legal challenges.

Given the current rate of processing, it appears the backlog of applications soon will be reduced to a point where new applications of an uncontested or routine nature may be processed. Because Commission resources dedicated to MDS/MMDS licensing are limited, we are eager to invite, and focus first on, those applications that will result in more MDS/MMDS service to the public in the most timely and expeditious manner possible. As the Commission considers what steps to take in light of this objective, the staff is in the process of evaluating possible options for Commission consideration. We could, for example, limit new applications to existing licensees that are prepared to expand immediately upon receiving additional authorizations. We might focus our processing resources on expanding the protected service areas of currently operating MDS/MMDS systems. Another alternative would be to maintain the freeze until the remaining backlog of applications is further reduced or eliminated.

The public is encouraged to submit its views on these and other approaches to modifying or eliminating the current freeze on initial applications for new stations. Views should be submitted in written form, provided in triplicate, and captioned "MDS/MSDS Processing." They should be addressed to the Chief, Domestic Facilities Division, 1600B, Common Carrier Bureau, FCC, 1919 M Street N.W., Washington, DC 20554, on or before August 30, 1993. Any submissions will be available for viewing in Room 6220 at 2025 M Street N.W. after September 1, 1993. For further information, contact Lynne Milne at 202-634-1772.

By the Chief, Domestic Facilities Division.

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